

**ANNUAL REPORT
OF THE
COMMISSION ON COURTS**



**Indiana Legislative Services Agency
200 W. Washington Street, Suite 301
Indianapolis, Indiana 46204**

October, 2006

INDIANA LEGISLATIVE COUNCIL

2006

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Vice-Chairman

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Speaker Brian Bosma

Chairman

Indianapolis

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Executive Director
Legislative Services Agency

COMMISSION ON COURTS

Membership Roster

Representatives

Kathy Richardson, Vice-Chairperson
Noblesville

Ralph Ayres
Chesterton

Robert Kuzman
Crown Point

Ryan Dvorak
South Bend

Senators

Richard Bray, Chairperson
Martinsville

David Long
Fort Wayne

John Broden
South Bend

Timothy Lanane
Anderson

Laymembers

G. Michael Witte
Lawrenceburg

Larry Bye
Marengo

Chief Justice Randall Shepard
Indianapolis

Ron Tabacynski
Crown Point

Jacqueline Rowan
Auburn

Staff

Timothy Tyler
Attorney for the Committee

Mark Goodpaster
Fiscal Analyst for the Committee

A copy of this report is available on the Internet. Reports, minutes, and notices are organized by committee. This report and other documents for this Committee can be accessed from the General Assembly Homepage at <http://www.in.gov/legislative/>.

I. STATUTORY AND LEGISLATIVE COUNCIL DIRECTIVES

The Indiana General Assembly enacted IC 33-23-10 creating the Commission on Courts.

IC 33-23-10-7 charges the Commission with the following:

1. Review and report on all requests for new courts or changes in jurisdiction of existing courts. A request for review under this subdivision must be received by the Commission not later than July 1 of each year. (A request received after July 1 may not be considered unless a majority of the Commission members agrees to consider the request.)
2. Conduct research concerning requests for new courts or changes in jurisdiction of existing courts. The research may include conducting surveys sampling members of the bar, members of the judiciary, and local officials to determine needs and problems.
3. Conduct public hearings throughout Indiana concerning requests for new courts or changes in jurisdiction of existing courts. The Commission shall hold at least one (1) public hearing on each request presented to the Commission.
4. Review and report on any other matters relating to court administration that the Commission determines appropriate, including the following:
 - a. Court fees.
 - b. Court personnel, except constables that have jurisdiction in a county that contains a consolidated city.
 - c. Salaries of court officers and personnel, except constables that have jurisdiction in a county that contains a consolidated city.
 - d. Jury selection.
 - e. Any other issues relating to the operation of the courts.
5. Submit a report in an electronic format under IC 5-14-6 before November 1 of each year to the General Assembly. The report must include the following:
 - a. A recommendation on all requests considered by the Commission during the preceding year for the creation of new courts or changes in the jurisdiction of existing courts.
 - b. If the Commission recommends the creation of new courts or changes in jurisdiction of existing courts, the following:
 - i. A draft of legislation implementing the changes.
 - ii. A fiscal analysis of the cost to the state and local governments of implementing recommended changes.
 - iii. Summaries of any research supporting the recommended changes.
 - iv. Summaries of public hearings held concerning the recommended changes.
 - c. A recommendation on any issues considered by the Commission under

subdivision (4).

The Legislative Council directed the Commission to study the following topics:

1. The establishment of a Commercial Vehicle Court (from SCR 8-2006).
2. Court fees (from SR 12-2006).
3. Appellate Court issues (from SCR 14-2006).

II. INTRODUCTION AND REASONS FOR STUDY

The legislative branch and the judiciary are separate and co-equal branches of government. The Commission on Courts was established to give the General Assembly adequate time to study legislative proposals that will affect the judicial branch.

III. SUMMARY OF WORK PROGRAM

The Commission met four times during the 2006 interim to study court-related issues.

At the first meeting on August 29, the Commission heard testimony on the following topics:

- *The creation of a judicial circuit for Switzerland County.
- *The adequacy of the Judicial Salaries Fee and the Court Administration Fee.

At the second meeting on September 26, the Commission heard testimony on the following topics:

- *The need for an additional magistrate position in Floyd County.
- *The need for a magistrate in Franklin County.
- *The need for a second judge for the Jackson Superior Court.
- *The need for a second judge for the Putnam Superior Court.
- *Historical data on population and court filings for Dearborn County, Ohio County, Switzerland County, and Jefferson County, an evaluation of the need for more judicial officers in these counties, and an evaluation of three organizational alternatives.

At the third meeting on October 5, the Commission heard testimony on the following topics:

- *The need for an additional magistrate position in Hamilton County.
- *The creation of a specialized Commercial Vehicle Court to handle Commercial Driver's License (CDL) cases in Indiana.
- *The caseload and staffing needs of the Indiana Court of Appeals.
- *Creating a judicial circuit for Switzerland County.
- *The statutory expiration date of the Commission.

At the fourth meeting on October 19, the Commission heard testimony on consolidating jury selection provisions in the Indiana Code in one chapter that conforms to Indiana Supreme Court jury rules. The Commission also discussed and voted on recommendations and endorsements to include in the Commission's Final Report.

IV. SUMMARY OF TESTIMONY

The Commission heard testimony from the following witnesses concerning the following topics:

Requests for New Judicial Officers

*Floyd County: Judge Terrence Cody spoke in favor of creating an additional magistrate position in Floyd County.

*Franklin County: Rep. Bob Bischoff and Judge Steven Cox spoke in favor of creating a magistrate position in Franklin County.

*Jackson County: Bill Bailey, President of the Seymour Chamber of Commerce, Rep. Terry Goodin, and Dr. Robert Schmielau, Superintendent of Seymour Community Schools, spoke in favor of adding a second judge to the Jackson Superior Court.

*Hamilton County: Rep. Kathy Richardson and Ollie Schierholz, Hamilton County Court Administrator, spoke in favor creating an additional magistrate position in Hamilton County.

*Putnam County: Judge Robert Lowe, Judge Matthew Headley, and Sen. Connie Lawson spoke in favor of adding a second judge to the Putnam Superior Court.

*Switzerland County: Monica Hensley, Deputy Prosecuting Attorney for Switzerland County and President of the Switzerland County Bar Association, and Judge Ted Todd spoke in favor of creating a judicial circuit for Switzerland County.

Dillon Dorrell, member of the Ohio County Council, Judge James Humphrey, and Aaron Negangard, Prosecuting Attorney for Dearborn and Ohio Counties, stated they supported creating a judicial circuit for Switzerland County only if the creation of the new circuit would not have any adverse impact on existing courts in Dearborn County, Jefferson County, or Ohio County.

Judge John Mitchell stated many attorneys disagree with continuing the Dearborn-Ohio Circuit Court arrangement as it is.

Mark Goodpaster, fiscal analyst for the Commission, discussed historical data on population and court filings for Dearborn County, Ohio County, Switzerland County, and Jefferson County, an evaluation of the need for more judicial officers in these counties, and an evaluation of three organizational alternatives.

Court Fees

Mark Goodpaster presented a report to Commission members comparing projected and actual collections of the Judicial Salaries Fee and Court Administration Fee. He stated that the revenues collected for these fees were roughly 50% lower than projected. He attributed this overestimation in part to collection and remittance procedures at the local level.

Creation of a Commercial Vehicle Court

Guy Boruff from the Indiana Department of Transportation, Kenny Cragen, President of the Indiana Motor Truck Association, Judge Ray Kickbush, Major Ed Reuter from the Indiana State Police, Kenneth Strickland from the Federal Highway Motor Carrier Division, and Sen. Thomas Wyss spoke in favor of creating a specialized Commercial Vehicle Court to handle Commercial Driver's License (CDL) cases and other commercial motor vehicle cases in Indiana. Supporters of the new court stated it was necessary because CDL laws were very technical and complicated and because the court would create uniformity in enforcement of motor carrier laws, help the state comply with applicable federal laws, and help relieve the burden on local courts. Mark Goodpaster presented information on court dispositions for traffic violations involving holders of CDLs. He also estimated what effect establishing a Commercial Vehicle Court would have on the state's trial courts.

Indiana Court of Appeals Caseload and Staffing Needs

Judge Jim Kirsch, Chief Judge of the Indiana Court of Appeals, stated that it appeared the Court's increasing caseload would soon require the number of judges on the Court to be increased or the size of the Court's staff to be increased. He said if these personnel changes are not made, the Court may have to drastically change the way the Court does business, including greatly reducing the number of written opinions the Court issues.

Commission on Courts Expiration Date

Timothy Tyler, attorney for the Commission, said the Indiana Code provision that establishes the Commission was set to expire on June 30, 2007. He stated the Commission could recommend doing nothing and let the Commission expire or the Commission could recommend repealing or amending the expiration date and let the Commission continue indefinitely or until a date certain.

Consolidating Jury Selection Provisions in the Indiana Code

Judge William Hughes from the Hamilton Superior Court and the Jury Committee of the Indiana Judicial Conference (Jury Committee) proposed repealing the original circuit court and Lake County jury selection chapters and consolidating these chapters into the one remaining jury selection chapter to create a general jury selection chapter that conforms with jury rules adopted by the Indiana Supreme Court.

V. COMMISSION RECOMMENDATIONS

The Commission made the following recommendations:

1. The Commission recommended the creation of the following judicial officer positions in the following counties:

*Franklin County: One magistrate for Franklin County (approved by unanimous voice vote). Franklin County is ranked third by "Severity of Need By County" in the Indiana Trial Courts 2005 Weighted Caseload Report (WCR).

*Jackson County: One additional judge for the Jackson Superior Court (approved by unanimous voice vote). Jackson County is ranked seventh in the WCR.

*Floyd County: One additional magistrate for Floyd County (approved by unanimous voice vote). Floyd County is ranked 13th in the WCR.

*Putnam County: One additional judge for the Putnam Superior Court beginning January 1, 2009 (approved by unanimous voice vote). Putnam County is ranked 15th in the WCR.

*Hamilton County: One additional magistrate for Hamilton County (approved by unanimous voice vote). Hamilton County is ranked 25th in the WCR.

2. The Commission endorsed the recommendation of the Jury Committee of the Indiana Judicial Conference to consolidate jury selection provisions in the Indiana Code in one chapter that conforms to Indiana Supreme Court jury rules with the understanding that provisions concerning domestic violence and firearms and city court jury selection may need to be amended or removed from any legislation introduced during the 2007 Session of the General Assembly (approved by unanimous voice vote).

3. The Commission recommended that the General Assembly should add another three judge panel to the Indiana Court of Appeals before January of 2009 (approved by unanimous voice vote).

4. The Commission recommended that a resolution should be introduced during the 2007 Session of the General Assembly urging that the creation of a specialized Commercial Vehicle Court should be studied further during the next interim (approved by unanimous voice vote).

5. The Commission recommended that the expiration date of the Commission should be changed from June 30, 2007, to June 30, 2011 (approved by unanimous voice vote).

The Commission did not take an official position on the creation of a new judicial circuit for Switzerland County. At the Commission's October 19, 2006, meeting, a motion was made and seconded that a new judicial circuit should be created for Switzerland County, that Jefferson County should remain as the only county in the current Jefferson-Switzerland joint circuit court, and that the Ohio-Switzerland joint superior court should be dissolved as of January 1, 2009, when the term of the current judge of the Ohio-Switzerland joint superior court expires. A roll

call vote was taken on the motion. Six members voted in favor of the motion and one member abstained because of a conflict of interest. Because Section 11 of Legislative Council Resolution 06-02 (adopted June 13, 2006) concerning policies governing study committees requires the affirmative vote of at least seven of the 13 members of the Commission to recommend a final bill draft or final report, the motion failed for lack of the required majority.

WITNESS LIST

August 29, 2006, Meeting

Dillon Dorrell, Ohio County Council
Mark Goodpaster, Senior Fiscal Analyst, Legislative Services Agency
Monica Hensley, Deputy Prosecuting Attorney for Switzerland County and President of the
Switzerland County Bar Association
James Humphrey, Dearborn-Ohio Circuit Court
Judge John Mitchell, Ohio-Switzerland Superior Court
Aaron Negangard, Prosecuting Attorney for Dearborn and Ohio Counties
Judge Ted Todd, Jefferson-Switzerland Circuit Court

September 26, 2006, Meeting

Bill Bailey, President of the Seymour Chamber of Commerce
Rep. Bob Bischoff
Judge Terrence Cody, Floyd Circuit Court
Judge Steven Cox, Franklin Circuit Court
Rep. Terry Goodin
Mark Goodpaster
Judge Matthew Headley, Putnam Circuit Court
Monica Hensley
Sen. Connie Lawson
Judge Robert Lowe, Putnam Superior Court
Aaron Negangard
Dr. Robert Schmielau, Superintendent of Seymour Community Schools

October 5, 2006, Meeting

Captain Brent Bible, Indiana State Police
Guy Boruff, Indiana Department of Transportation
Kenny Cragen, President of the Indiana Motor Truck Association
Monica Hensley
Judge James Humphrey
Senior Judge Ray Kickbush
Judge Jim Kirsch, Chief Judge of the Indiana Court of Appeals
Major Ed Reuter, Indiana State Police
Rep. Kathy Richardson
Ollie Schierholz, Hamilton County Court Administrator
Kenneth Strickland, Federal Highway Motor Carrier Division
Timothy Tyler, Senior Staff Attorney, Legislative Services Agency
Sen. Thomas Wyss

October 19, 2006, Meeting

Michelle Goodman, Staff Attorney, Indiana Judicial Center
Mark Goodpaster
Judge William Hughes, Hamilton Superior Court , Indiana Judicial Conference Jury Committee

